

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Brian Lee Walker,

Civil Action No. 5:22-cv-2484-CMC

Plaintiff,

vs.

**ORDER**

Director Neil McKeown; Union County Detention Center; Southern Health Partners; John M. Baarcke; Dr. Charles Outz; Cathy Lipe; and Heather Varner

Defendants.

This matter is before the court on Plaintiff's Complaint filed August 1, 2022, alleging violations of his constitutional rights. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings.

On December 26, 2022, Defendant John M. Baarcke filed a motion to dismiss. ECF No. 42. Because Plaintiff is proceeding *pro se*, a *Roseboro* Order was entered on January 6, 2023, advising him of the importance of such motions and the need to file a response. ECF No. 50. This was returned undeliverable. ECF Nos. 52, 54. An inmate search was performed on the South Carolina Department of Corrections website, and no listing was returned for Brian Lee Walker. ECF No. 53. The Magistrate Judge then entered an Order directing Plaintiff to advise the court whether he wished to continue with his case. ECF No. 57. He was warned that a failure to respond would result in this action being recommended for dismissal with prejudice for failure to prosecute. *Id.* On March 6, 2023, Defendants McKeown and Union County Detention Center filed a motion to dismiss for lack of prosecution. ECF No. 62. Another *Roseboro* Order was entered. ECF No.

63. The mail was again returned as undeliverable. ECF No. 65. Defendant Baarcke then filed a motion to dismiss for lack of prosecution (ECF No. 67), and Defendants Lipe, Outz, Varner, and Southern Health Partners filed a motion to join the motions to dismiss (ECF No. 68). A third Roseboro Order was entered (ECF No. 70), which was returned as undeliverable (ECF No. 75).

On April 18, 2023, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending this matter be summarily dismissed with prejudice for failure to prosecute. ECF No. 77. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff failed to file objections or any other filing with this court, and the time to do so has expired. Plaintiff’s copy of the Report was again returned as undeliverable, and no listing for Brian Lee Walker appears on the SCDC inmate search website. Plaintiff has not filed a change of address with the court.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but

instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error, and agrees this matter should be dismissed. Accordingly, the court adopts the Report by reference in this Order. This matter is dismissed with prejudice for failure to prosecute.

**IT IS SO ORDERED.**

s/Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
Senior United States District Judge

Columbia, South Carolina  
May 18, 2023